

## DIVISION 3. (LOBBYING ACTIVITIES)

### CHAPTER 1. REGULATION OF LOBBYING ACTIVITIES

#### SEC. 23.101. DEFINITIONS.

Whenever in this Chapter the following terms are used, they shall have the meanings respectively ascribed to them in this section:

- (a) The term “candidate” means a person who has filed a statement of organization as a committee for election to an elective County office, a declaration of intent for election to an elective County office or a declaration of candidacy to an elective County office, whichever occurs first. A person shall not be deemed a candidate for purposes of this chapter (1) after he or she is sworn into the elective County office, or (2) if the person lost the election, after the person has terminated his or her campaign statement filing obligation for the office pursuant to Government Code section 84214 or after certification of the election results, whichever is earlier.
- (b) (1) The term “contribution” means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes.
- (2) A payment made at the behest of a controlled committee is a contribution to the controlled committee unless full and adequate consideration is received from the controlled committee for making the payment.
- (3) A payment made at the behest of a candidate is a contribution to the candidate unless the criteria is either subparagraph (A) or (B) are satisfied:
  - (A) Full and adequate consideration is received from the candidate.
  - (B) It is clear from the surrounding circumstances that the payment was made for purposes unrelated to his or her candidacy for elective office. The following type of payments are presumed to be for purposes unrelated to a candidate’s candidacy for elective office.

- (i) A payment made principally for personal purposes, in which case it may be considered a gift.
  - (ii) A payment made by a state, local, or federal governmental agency or by a nonprofit organization that is exempt from taxation under Section 501(c) (3) of the Internal Revenue Code.
  - (iii) A payment not covered by clause (i) made principally for legislative, governmental, or charitable purposes, in which case it is neither a gift nor a contribution.
- (C) For purposes of subparagraph (B), a payment is made for purposes related to a candidate’s candidacy for elective office if all or a portion of the payment is used for election-related activities. For purposes of this subparagraph, “election-related activities” shall include, but are not limited to, the following:
- (i) Communications that contain express advocacy of the nomination or election of the candidate or the defeat of his or her opponent.
  - (ii) Communications that contain reference to the candidate’s candidacy for elective office, the candidate’s election campaign, or the candidate’s or his or her opponent’s qualifications or elective office.
  - (iii) Solicitation of contributions to the candidate or to third persons for use in support of the candidate or in opposition to his or her opponent.

- (iv) Arranging, coordinating, developing, writing, distributing, preparing, or planning of any communication or activity described in clauses (i), (ii), or (iii) above.
  - (v) Recruiting or coordinating campaign activities of campaign volunteers on behalf of the candidate.
  - (vi) Preparing campaign budgets.
  - (vii) Preparing campaign finance disclosure statements.
  - (viii) Communications directed to voters or potential voters as part of activities encouraging or assisting persons to vote. If the communication contains express advocacy of the nomination or election of the candidate or the defeat of his or her opponent.
- (D) A contribution made at the behest of a candidate for a different candidate or to a committee not controlled by the behesting candidate is not a contribution to the behesting candidate.
- (4) The term “contribution” includes the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events, the candidate’s own money or property used on behalf of his or her candidacy other than personal funds of the candidate used to pay either a filing fee for a declaration of candidacy or a candidate statement prepared pursuant to Section 13307 of the Elections Code, the granting of discounts or rebates not extended to the public generally or the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office, the payment of compensation by any person for the personal services or expenses of any other person if the services are rendered or expenses incurred on behalf of a candidate or committee without payment of full and adequate consideration.
- (5) The term “contribution” further includes any transfer of anything of value received by a committee from another committee, unless full and adequate consideration is received.
- (6) The term “contribution” does not include amounts received pursuant to an enforceable promise to the extent those amounts have been previously reported as a contribution. However, the fact that those amounts have been received shall be indicated in the appropriate campaign statement.
- (7) The term “contribution” does not include a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant’s home or office if the costs for the meeting or fundraising event are five hundred dollars (\$500) or less.
- (8) Notwithstanding the foregoing definition of “contribution,” the term does not include volunteer personal services or payments made by any individual for his or her own travel expenses if the payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him or her.
- (9) The term “contribution” for purposes of this chapter does not include contribution to support or oppose ballot measures.
- (c) The term “Controlled committee” means a committee which is controlled directly or indirectly by a candidate or which acts jointly with a candidate or controlled committee in connection with the making of expenditures. A candidate controls a committee if the candidate, his or her agent or any other committee he or she controls has a significant influence on the actions or decisions of the committee.
- (d) The term “County decisions” means any decision, or recommendation as to a decision, concerning any matter (other than the making of a ministerial decision), whether legislative, administrative, or quasi-judicial, which is pending before or may be submitted to:
- (1) The Board of Supervisors or any County board, commission, committee or officer;
  - (2) The Board of Supervisors acting as the governing body of any special district; or
  - (3) Any board, commission, committee or officer of such special district for decision.
- (e) The term “County officer or employee” shall include all officers and employees of all special districts for which the Board of Supervisors is the governing body.
- (f) The terms “elected officeholder” and “elected officer,” mean a person who holds an elective

County office or has been elected to an elective County office but has not yet taken office.

- (g) The term “elective County office” means members of the Board of Supervisors, the Assessor/Recorder/County Clerk, the District Attorney, the Sheriff, and the Tax Collector/Treasurer. For purposes of this chapter, the term “elective County office” does not include members of the County Board of Education.
- (h) The term “firm” includes a partnership and joint venture. The term does not include a person operating as a sole proprietorship under a fictitious name.
- (i) (1) The term “gift” means, except as provided in subdivision (2), any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status. Any person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value.

(2) The term “gift” does not include:

- (A) Informational material such as books, reports, pamphlets, calendars, or periodicals. No payment for travel or reimbursement for any expenses shall be deemed “informational material.”
- (B) Gifts which are not used and which, within 30 days after receipt, are either returned to the donor or delivered to a nonprofit entity exempt from taxation under Section 501(c) (3) of the Internal Revenue Code without being claimed as a charitable contribution for tax purposes.
- (C) Gifts from an individual’s spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of any such person; provided that a gift from any such

person shall be considered a gift if the donor is acting as an agent or intermediary for any person not covered by this paragraph.

- (D) Campaign contributions required to be reported under the Political Reform Act, as amended.
- (E) Any devise or inheritance.
- (F) Personalized plaques and trophies with an individual value of less than two hundred fifty dollars (\$250).

(j) the term “person” means an individual.

(Amended by Ord. No. 8966 (N.S.), effective 11-19-98.)

## **SEC. 23.102. REGISTRATION.**

- (a) Except as provided in Section 23.103, any person who, on behalf of any corporation, firm, organization, or person other than himself attempts to influence any County decision by contacting, personally or by telephone any of the following County officers or employees shall prior to such contact, or within 5 calendar days thereafter, register as a County legislative advocate:
  - (1) Members of the Board of Supervisors
  - (2) Members of Planning Commission
  - (3) Members of Assessment Appeals Board
  - (4) Members of Planning Environmental Review Board and their alternates
  - (5) Members of Civil Service Commission
  - (6) Members of San Diego County Air Pollution Control District Hearing Board
  - (7) Confidential Investigators of the Board of Supervisors
  - (8) Board Representatives of the Board of Supervisors
  - (9) County Assessor
  - (10) Chief Deputy County Assessor
  - (11) District Attorney
  - (12) Assistant District Attorney
  - (13) Sheriff
  - (14) Undersheriff
  - (15) County Treasurer
  - (16) Chief Deputy County Treasurer
  - (17) Director of Planning and Land Use
  - (18) Members of the Board of Planning and Zoning Appeals
  - (19) Director of General Services
  - (20) Chief Administrative Officer
  - (21) Assistant Chief Administrative Officer

(22) Members of San Diego County Capital Asset Leasing Corporation (SANCAL) Board of Directors

(23) Director of Purchasing and Contracting

(b) A person representing a firm of which he is a member shall be deemed to be representing a person other than himself.

(c) The registration requirement imposed by this section shall apply to all natural persons conducting the activities described in subdivision (a). A corporation, firm, or organization employing persons engaged in lobbying activities may not elect to register in its own name. (Amended by Ord. No. 4543 (N.S.), effective 8-14-75; amended by Ord. No. 6534 (N.S.), effective 2-16-83; Ord. No. 6540 (N.S.), adopted 3-2-83, effective 4-1-83, supersedes Ord. No. 6534; amended by Ord. No. 7400 (N.S.), effective 11-27-87; amended by Ord. No. 8993 (N.S.), effective February 11, 1999)

### **SEC. 23.103. EXEMPTIONS FROM REGISTRATION REQUIREMENT.**

Registration shall not be required of the following persons:

(1) A person whose only contact with any County officer or employee described in Section 23.102 in attempting to influence a County decision consists of speaking at a public meeting or hearing before a board or commission or at a hearing before a County officer, or of sending a written communication to a County officer or employee, or both.

(2) An officer or employee of the United States or any state or political subdivision thereof, cities, counties, special districts, or any other governmental entity, representing his governmental employer in the course of his official duties.

(3) A member of the State Bar of California who is performing a service, which lawfully can be performed only by an attorney licensed to practice law in California.

(4) Any representative of an employee organization while acting pursuant to the Meyers-Milias-Brown Act or pursuant to a procedure established by the County in accordance with said Act, contacting an officer or employee of the County other than a member of a board or commission, or contacting a member of a board or commission who has been designated by such board or commission as its representative to meet with such representative of an employee organization.

(5) Any person brought to a County officer or employee described in Section 23.102 by a person registered pursuant to this Chapter to provide technical or other information.

(6) Any person whose contacts with County officers or employees described in Section 23.102 is limited to routine sales discussions with the Director of Purchasing and Contracting for the purpose of selling goods or services to the County. (Amended by Ord. No. 7400 (N.S.), effective 11-27-87; amended by Ord. No. 8993 (N.S.), effective February 11, 1999)

### **SEC. 23.104. CONTENTS OF REGISTRATION.**

(a) Any registration made pursuant to Section 23.102 shall be in writing, filed with the Clerk of the Board of Supervisors, signed by the registrant under penalty of perjury.

(b) The registration shall set forth the following information:

(1) Registrant's name.

(2) Registrant's business address.

(3) Name of the person, firm, corporation, or organization represented. If the registrant is employed by a company or firm that itself has been retained by a person, corporation, firm, or organization to obtain a County decision, to which the registrant has been assigned, the registrant shall disclose the names of both his immediate employer and the person, corporation, firm, or organization that has retained his immediate employer.

(4) A list of the elective County offices that the registrant will attempt to influence. The list shall include the Board of Supervisors in the event that the registrant will attempt to influence any member of the Board.

(Amended by Ord. 8966 (N.S.), effective 11-19-98; amended by Ord. 9011 (N.S.), effective April 15, 1999.)

### **SEC. 23.105. NOTIFICATION OF REGISTRATION REQUIREMENT.**

The Clerk of the Board of Supervisors shall issue, upon request of any County officer or employee described in Section 23.102 a "Notice of Registration Required" to any person believed by such County officer or employee to be required to register under Section 23.102. Any person who in good faith believes that he is not required to register

under this Chapter shall not be deemed to have violated Section 23.102 if he registers within 10 days after receipt of notice from the Clerk of the Board of Supervisors that registration is required.

### **SEC. 23.106. DISCLOSURE STATEMENTS.**

- (a) The term "quarter" means the annual calendar quarter of the year, namely, the time periods encompassed by January 1 -March 31, April 1 - June 30, July 1 - September 30, and October 1 - December 31, respectively.
- (b) Any person registered or required to be registered pursuant to this Chapter, and any person, corporation, firm, or organization represented by a person registered pursuant to this Chapter, who makes any expenditure of \$25 or more on any one occasion, or who expends in the aggregate a total of \$100 or more in any one quarter in providing food, drink lodging, transportation, recreation, service, or any other thing of value, including any gift or political campaign contribution, to an individual County officer or employee described in Section 23.102, whether on his own behalf or on behalf of another, shall file, between the 1<sup>st</sup> and 15<sup>th</sup> day of each calendar quarter, a written statement disclosing such expenditures made during the preceding quarter. The statement shall be filed with the Clerk of the Board of Supervisors, shall set forth the amount expended and the name of the County officer or employee who received the service or thing of value and shall be under penalty of perjury. For purposes of determining the amount expended during one quarter, the amounts expended on any one County officer or employee by all representatives, officers, directors and employees of a corporation, firm, or organization shall be aggregated. (Amended by Ord. No. 8993 (N.S.), effective February 11, 1999)

(Section 23.107 repealed by Ord. No. 9011 (N.S.), effective April 15, 1999.)

### **SEC. 23.108. EMPLOYMENT OF COUNTY EMPLOYEES.**

If any person registered or required to be registered under Section 23.102 hereof employs, or if any person, corporation, firm or organization directly employing or represented by a person registered or

required to be registered under Section 23.102 hereof employs, any person known to the employing person or entity to be an officer or full-time employee of the County, in any capacity whatsoever, the person, corporation, firm, or organization employing the County officer or employee shall file with the Clerk of the Board of Supervisors, within ten days after such employment, the name of the person to be paid thereunder, and the amount of pay or consideration to be paid thereunder, and the date first employed. (Amended by Ord. No. 8993 (N.S.), effective February 11, 1999)

### **SEC. 23.109. PROHIBITED CAMPAIGN CONTRIBUTIONS.**

- (a) No elected officeholder shall accept any campaign contribution from a person registered pursuant to this chapter where the person's registration form includes the elected office of the officeholder in the list of County offices the registrant will attempt to influence as provided under section 23.104 (b) (5).
- (b) No candidate for elective County office and no controlled committee of the candidate shall accept any campaign contributions from a person registered pursuant to this chapter where the person's registration form includes the elected office to which the candidate is seeking election in the list of County offices the registrant will attempt to influence as provided under section 23.104 (b) (5).
- (c) Prior to the end of each calendar month the Clerk of the Board shall compile a list of all persons registered pursuant to this chapter and the elected office or offices such persons will attempt to influence.
- (d) Elected officeholders, candidates for elective County offices and the candidate's controlled committee may reasonable rely on the information contained in the most recent list of registrants compiled by the Clerk in determining whether campaign contributions may be accepted from any person. Acceptance of campaign contributions which would not be prohibited based on the information set forth in the Clerk's most recent list of registrants shall not constitute a violation of this section.

(Added by Ord. No. 8966 (N.S.), effective 11-19-98.)

**SEC. 23.109.5. PROHIBITED GIFTS.**

No elected officeholder and no candidate for elective office shall accept any gifts from persons registered pursuant to this chapter. Elected officeholders and candidates for elective County office may reasonably rely on the information contained in the most recent list of registrants compiled by the Clerk in determining whether gifts may be accepted from any person. Acceptance of gifts which would not be prohibited based on the information set forth in the Clerk's most recent list of registrants shall not constitute a violation of this section.

(Added by Ord. No. 8966 (N.S.), effective 11-19-98.)

**SEC. 23.110. SEVERABILITY.**

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Chapter, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter or its application to other persons. The Board of Supervisors hereby declares that it would have adopted this Chapter, and each section, subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivision, sentences, clauses, phrases, or portions, or the application thereof to any person, be declared invalid or unconstitutional.